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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,348	08/01/2003	Victor Selig	ST8726US	3721
22203	7590	07/18/2006		
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			EXAMINER CONLEY, SEAN EVERETT	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/633,348

Applicant(s)

SELIG ET AL.

Examiner

Sean E. Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/1/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/21/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. The amendment filed April 21, 2006 has been received and considered for examination. Claims 1-3, 5, 7-15, and 17-18 are pending. Claims 4, 6, and 16 have been canceled by amendment and therefore the rejections of these claims are moot.

### *Claim Rejections - 35 USC § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-3, 5, 7-15, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Spence (U.S. Patent No. 4,783,321 A).

Regarding claims 1, 10, 11 and 18, Spence discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (60) having a bottom wall and a continuous side wall extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid continuous first seal element (82, 84, 86) formed along said free edge of said side wall, said first seal element having two, spaced-apart, rail-like projections (82, 84) that extend continuously around said free edge of the side wall (see figure 13); and a lid (24) attachable to said tray, said lid (24) having a continuous rigid second seal element (23) thereon, said second seal element being dimensioned to

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mingly engage said first seal element on said tray such that the rail-like projection (23) on said lid (24) is disposed between and spaced apart from said two rail-like projections (82, 84) on said tray (60) when said lid is attached to said tray (see figure 13), wherein a continuous U-shaped channel forming a convoluted path is defined between said first seal element and said second seal element (see figures 2, 3, 13; col. 4 line 40 to col. 5, line 2; col. 8, lines 4-60).

Regarding claims 2 and 12, Spence discloses that said first seal element (82, 84, 86) is an integral part of said tray, and said second seal element (23, 27, 29) is an integral part of said lid (see figures 2 and 3; col. 4 line 40 to col. 5, line 2; col. 8, lines 4-60).

Regarding claims 3 and 15, Spence discloses that said path defined between said first seal element and said second seal element is generally serpentine (defined as winding or turning, see Webster Dictionary) in shape (see figures 3 and 6).

Regarding claim 13, Spence discloses that said first and second seal elements include interlocking rail-like projections (see figure 13).

Regarding claims 5 and 14, Spence discloses that said first and said second seal elements are comprised of two spaced-apart rail-like projections (see figure 13).

Regarding claim 7, Spence discloses that said two rail-like projections (23, 27) on said tray (60) abut said lid (14) when said lid is attached to said tray (see figure 13).

Regarding claim 8, Spence discloses that said rail-like projections (23, 27) on said lid (14) do not engage (defined as to interlock, see Webster Dictionary) said tray (60) (see figure 13).

Regarding claim 9, Spence discloses that the serpentine path is defined between said rail-like projections on said lid and said rail-like projections on said tray (see figures 2, 3, 6).

Regarding claim 17, Spence discloses a continuous U-shaped channel that is defined between said rail-like elements on said tray and said lid (see figure 13). Furthermore, the U-shaped channel comprises a fluid passage (channel (104)).

3. Claims 1-3 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Spence (U.S. Patent No. 4,919,888).

Regarding claims 1, 10, and 11, Spence discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (base (12)) having a bottom wall (18) and a continuous side wall (composed of multiple walls (20, 21 and 22)) extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid continuous first seal element (outwardly projecting rim (25)) formed along said free edge of said side wall having two, spaced-apart, rail-like projections; and a lid (14) attachable to said tray, said lid (14) having a rigid continuous second seal element (gasket lip (42)) thereon, said second seal element being dimensioned to matingly engage said first seal element (rim (25)) on said tray such that the rail-like projection (42) on said lid (14) is disposed between and spaced apart from said two rail-like projections of rim (25) on said tray when said lid is attached to said tray (see figure 3), wherein a continuous U-shaped channel forming a convoluted path is defined between

said first seal element and said second seal element (see figures 2, 3; col. 3, line 50 to col. 4, line 30).

Regarding claims 2 and 12, Spence discloses that said first seal element (outwardly projecting rim (25)) is an integral part of said tray (base (12)), and said second seal element (gasket lip (42)) is an integral part of said lid (see figures 2 and 3; col. 3, line 50 to col. 4, line 30).

Regarding claim 3, Spence discloses that said path defined between said first seal element and said second seal element is generally serpentine (defined as winding or turning, see Webster Dictionary) in shape (see figure 1).

Regarding claim 13, Spence discloses that said first and second seal elements (outwardly projecting rim (25) and gasket lip (42), respectively) include interlocking rail-like projections (see figure 3; col. 4, lines 16-30).

### ***Response to Arguments***

4. Applicant's arguments filed April 21, 2006 have been fully considered but they are not persuasive.

5. First, the applicant argues that none of the cited references teaches, suggests, or shows a lid and a tray having seal elements formed thereon wherein a convoluted path is defined between the seal elements. The examiner respectfully disagrees.

Spence ('888) clearly teaches a convoluted path (space where gasket (28) is located) that is defined between the seal elements (lip (42) of the lid and the rail-like

projections extending from rim (25) of the tray) when the lid and tray are matingly engaged (see figure 3). The space holding gasket (28) is the convoluted path defined by the seals of the lid and tray.

Spence ('321) also clearly teaches a convoluted path (channel (104)) that is defined between rail-like projections (82, 84) which form a portion of the seal of the tray (60) and the rail-like projection (23) which form a portion of the seal of the lid (24). The convoluted path is defined when the lid and tray are engaged (see figure 13).

6. Secondly, the applicant argues none of the cited references teaches, suggests, or shows a container where a convoluted path is defined through a continuous U-shaped channel. The examiner respectfully disagrees.

Spence ('321) teaches that the convoluted path is defined by a continuous U-shape channel (see channel 104 in figure 13, the cross section clearly shows the channel is U-shaped. Furthermore, figure 3 shows that the channel is continuous around a portion of the sidewall of the tray).

Spence ('888) also teaches a U-shaped channel (see cross section of the channel in figure 3 (the gasket (28) is located in the channel). Furthermore, Spence ('888) teaches that the channel is continuous completely around the side wall of the tray (see figure 1).

7. Thirdly, the applicant argues that none of the cited references teaches, suggests, or shows first and second seal elements that include continuous, spaced-apart, interlocking rail-like projections disposed such that they are spaced apart when the lid is attached to the tray. The examiner respectfully disagrees.

Spence ('888) clearly teaches a channel or path (space where gasket (28) is located) that is defined between the continuous seal elements (lip (42) of the lid and the rail-like projections extending from rim (25) of the tray) when the lid and tray are matingly engaged and spaced apart (see figure 3).

Spence ('321) also clearly teaches a channel or path (channel (104)) that is defined between continuous rail-like projections (82, 84) which form a portion of the seal of the tray (60) and the continuous rail-like projection (23) which forms a portion of the seal of the lid (24) when the lid and tray are mating engaged. Furthermore, the seal elements are spaced apart when the lid and tray are engaged (see figure 13).

8. Lastly, the applicant argues that none of the cited references teaches, suggests, or shows a continuous U-shaped channel that provides a convoluted path between the cavity and the exterior of the container. The examiner respectfully disagrees.

Spence ('888) and Spence ('321) both clearly teach that the continuous U-shaped convoluted path is provided in a location that is between the cavity and the exterior of the container (that is located in between the space of the cavity and the space of the exterior) (see figures 1 and 3 of Spence ('888) and figures 3 and 13 of Spence ('321)).



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

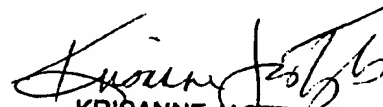
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEC   
July 6, 2006

  
KRISANNE JASTRZAB  
PRIMARY EXAMINER